

out a new execution against the goods and estate of the prisoner, in like manner as if he had never been committed.

Plaintiff give a discharge.

§ 11. The plaintiff in the action may at any time order the prisoner to be discharged, and he shall not thereafter be liable to imprisonment for the same cause of action.

Creditor of imprisoned debtor to advance money for his support.

§ 12. Whenever a person is committed to jail on an execution issued on a judgment recovered in a civil action, the creditor, his agent or attorney, shall advance to the jailor, within twenty-four hours after such commitment, sufficient money to pay for the support of said prisoner during the time for which he may be imprisoned, and in case the money should not be so advanced, or if, during the time the prisoner may be in confinement, the money should be expended in the support of such prisoner, and the creditor should neglect for twenty-four hours to advance such further sum as might be necessary for his support, the jailor shall forthwith discharge such prisoner from custody; and such discharge shall have the same effect as a discharge by order of the creditor.

Chap. 133.

AN ACT for the Government and Protection of Indians.

Passed April 22, 1850.

The People of the State of California, represented in Senate and Assembly, do enact as follows :

Jurisdiction of complaints by and against Indians. Indians to be permitted to reside on lands now occupied by them. Proviso.

§ 1. Justices of the Peace shall have jurisdiction in all cases of complaints by, for, or against Indians, in their respective Townships in this State.

Appeal.

§ 2. Persons and proprietors of lands on which Indians are residing, shall permit such Indians peaceably to reside on such lands, unmolested in the pursuit of their usual avocations for the maintenance of themselves and families: *Provided*, the white person or proprietor in possession of such lands may apply to a Justice of the Peace in the Township where the Indians reside, to set off to such Indians a certain amount of land, and, on such application, the Justice shall set off a sufficient amount of land for the necessary wants of such Indians, including the site of their village or residence, if they so prefer it; and in no case shall such selection be made to the prejudice of such Indians, nor shall they be forced to abandon their homes or villages where they have resided for a number of years; and either party feeling themselves aggrieved, can appeal to the County Court from the decision of the Justice: and then divided, a record shall be made of the lands so set off in the Court so dividing them, and the Indians shall be permitted to remain thereon until otherwise provided for.

Right of custody and control of Indian children during their minority.

§ 3. Any person having or hereafter obtaining a minor Indian, male or female, from the parents or relations of such Indian minor, and wishing to keep it, such person shall go before a Justice of the Peace in his Township, with the parents or friends of the child, and if the Justice of the Peace becomes satisfied that no compulsory means have been used to obtain the child from its parents or friends, shall enter on record, in a book kept for that purpose, the sex and probable age of the child, and shall give to such person a certificate, authorizing him or her to have the care, custody, control, and earnings of such minor, until he or she obtain the age of majority. Every male Indian shall be deemed to have attained his majority at eighteen, and the female at fifteen years.

At what age to attain majority.

Penalty for improper treatment of Indian child by person having the custody thereof.

§ 4. Any person having a minor Indian in his care, as described in the foregoing Section of this Act, who shall neglect to clothe and suitably feed such minor Indian, or shall inhumanly treat him or her, on conviction thereof shall be subject to a fine not less than ten dollars, at the discretion of a Court or Jury; and the Justice of the Peace, in his discretion, may place the minor Indian in the care of some other person, giving him the same rights and liabilities that the former master of said minor was entitled and subject to.

Hiring of Indians—how effected.

§ 5. Any person wishing to hire an Indian, shall go before a Justice of the Peace with the Indian, and make such contract as the Justice may approve, and the Justice shall file such contract in writing

in his office, and all contracts so made shall be binding between the parties; but no contract between a white man and an Indian, for labor, shall otherwise be obligatory on the part of an Indian.

§ 6. Complaints may be made before a Justice of the Peace, by white persons or Indians; but in no case shall a white man be convicted of any offence upon the testimony of an Indian, or Indians. And in all cases it shall be discretionary with the Court or jury after hearing the complaint of an Indian.

§ 7. If any person forcibly conveys any Indian from his home, or compels him to work, or perform any service against his will, in this State, except as provided in this Act, he or they shall, on conviction, be fined in any sum not less than fifty dollars, at the discretion of the Court or jury.

§ 8. It shall be the duty of the Justices of the Peace, once in six months in every year, to make a full and correct statement to the Court of Sessions of their county, of all moneys received for fines imposed on Indians, and all fees allowed for services rendered under the provisions of this Act; and said Justices shall pay over to the County Treasurer of their respective counties, all money they may have received for fines and not appropriated, or fees for services rendered under this Act; and the Treasurer shall keep a correct statement of all money so received, which shall be termed the "Indian Fund" of the county. The Treasurer shall pay out any money of said funds in his hands, on a certificate of a Justice of the Peace of his county, for fees and expenditures incurred in carrying out the provisions of this law.

§ 9. It shall be the duty of Justices of the Peace, in their respective townships, as well as all other peace officers in this State, to instruct the Indians in their neighborhood in the laws which relate to them, giving them such advice as they may deem necessary and proper; and if any tribe or village of Indians refuse or neglect to obey the laws, the Justice of the Peace may punish the guilty chiefs or principal men by reprimand or fine, or otherwise reasonably chastise them.

§ 10. If any person or persons shall set the prairie on fire, or refuse to use proper exertions to extinguish the fire when the prairies are burning, such person or persons shall be subject to fine or punishment, as a Court may adjudge proper.

§ 11. If any Indian shall commit an unlawful offence against a white person, such person shall not inflict punishment for such offence, but may, without process, take the Indian before a Justice of the Peace, and on conviction, the Indian shall be punished according to the provisions of this Act.

§ 12. In all cases of trial between a white man and an Indian, either party may require a jury.

§ 13. Justices may require the chiefs and influential men of any village to apprehend and bring before them or him any Indian charged or suspected of an offence.

§ 14. When an Indian is convicted of an offence before a Justice of the Peace punishable by fine, any white person may, by consent of the Justice, give bond for said Indian, conditioned for the payment of said fine and costs, and in such case the Indian shall be compelled to work for the person so bailing, until he has discharged or cancelled the fine assessed against him: *Provided*, the person bailing shall treat the Indian humanely, and clothe and feed him properly; the allowance given for such labor shall be fixed by the Court, when the bond is taken.

§ 15. If any person in this State shall sell, give, or furnish to any Indian, male or female, any intoxicating liquors (except when administered in sickness), for good cause shown, he, she, or they so offending shall, on conviction thereof, be fined not less than twenty dollars for each offence, or be imprisoned not less than five days, or fined and imprisoned, as the Court may determine.

§ 16. An Indian convicted of stealing horses, mules, cattle, or any valuable thing, shall be subject to receive any number of lashes not exceeding twenty-five, or shall be subject to a fine not exceeding two hundred dollars, at the discretion of the Court or Jury.

§ 17. When an Indian is sentenced to be whipped, the Justice may appoint a white man, or an Indian at his discretion, to execute the sentence in his presence, and shall not permit unnecessary cruelty in the execution of the sentence.

§ 18. All fines, forfeitures, penalties recovered under or by this Act, shall be paid into the treasury of the county, to the credit of the Indian Fund as provided in Section Eight.

Complaints by white persons or Indians. No conviction on testimony of Indian. Penalty for abduction of Indians or forcing them to work.

Justices to report to sessions moneys received for fines of Indians, and all fees received, and pay over same.

Indian fund.

Indians to be instructed in laws relating to them. Indians refusing to obey laws may be punished.

Setting fire to prairie or not aiding to extinguish it when on fire.

Offences by Indians against white persons.

Jury trial may be demanded. Chiefs may be required to apprehend Indian charged with an offence. Indians sentenced to pay fine may be compelled to work out fine and costs.

Penalty for furnishing intoxicating liquors to Indians.

Punishment of Indians convicted of stealing.

Sentence of whipping—how executed.

All fines, &c., to be paid into treasury.

Fee to justice
for confirming
contracts with
Indians.

§ 19. All white persons making application to a Justice of the Peace, for confirmation of a contract with or in relation to an Indian, shall pay the fee, which shall not exceed two dollars for each contract determined and filed as provided in this Act, and for all other services, such fees as are allowed for similar services under other laws of this State. *Provided*, the application fee for hiring Indians, or keeping minors, and fees and expenses for setting off lands to Indians, shall be paid by the white person applying.

Able bodied
Indians begging,
&c., to be hired
out to work.

§ 20. Any Indian able to work and support himself in some honest calling, not having wherewithal to maintain himself, who shall be found loitering and strolling about, or frequenting public places where liquors are sold, begging, or leading an immoral or profligate course of life, shall be liable to be arrested on the complaint of any resident citizen of the county, and brought before any Justice of the Peace of the proper county, Mayor or Recorder of any incorporated town or city, who shall examine said accused Indian, and hear the testimony in relation thereto, and if said Justice, Mayor, or Recorder shall be satisfied that he is a vagrant, as above set forth, he shall make out a warrant under his hand and seal, authorizing and requiring the officer having him in charge or custody, to hire out such vagrant within twenty-four hours to the best bidder, by public notice given as he shall direct, for the highest price that can be had, for any term not exceeding four months; and such vagrant shall be subject to and governed by the provisions of this Act, regulating guardians and minors, during the time which he has been so hired. The money received for his hire, shall, after deducting the costs, and the necessary expense for clothing for said Indian, which may have been purchased by his employer, be, if he be without a family, paid into the County Treasury, to the credit of the Indian fund. But if he have a family, the same shall be appropriated for their use and benefit: *Provided*, that any such vagrant, when arrested, and before judgment, may relieve himself by giving to such Justice, Mayor, or Recorder, a bond, with good security, conditioned that he will, for the next twelve months, conduct himself with good behavior, and betake to some honest employment for support.

Application of
money received
for his hire.

Proviso.